## CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:		Force	V	Discourt.	☑ U.S.
Julia Pagnamenta		Squad #02	202003377	☑	Abuse		O.L.	☐ Injury
Incident Date(s)		Location of Incident:			18 M	o. SC	)L	Precinct:
Monday, 05/18/2020 11:53 AM		445 Albee Square West	t (Target Store)		5/4	/2022	2	84
Date/Time CV Reported		CV Reported At:	How CV Reported:		Date/Time	Rece	ived at CCI	B
Mon, 05/18/2020 10:25 PM		CCRB	On-line website		Mon, 05/1	8/202	0 10:25 PM	ſ
Complainant/Victim	Туре	Home Addre	ss					
Witness(es)		Home Addre	ss					
Subject Officer(s)	Shield	TaxID	Command					
1. POM Brian Ramirez	22014	946143	PBBN SU					
Officer(s)	Allegatio	on			Inve	stiga	tor Recon	nmendation
A . POM Brian Ramirez	Abuse: P	olice Officer Brian Ram	irez stopped § 87(2)(b)					
B . POM Brian Ramirez	Abuse: Police Officer Brian Ramirez searched § 87(2)(b)							
C . POM Brian Ramirez	Abuse: Police Officer Brian Ramirez threatened to arrest § \$7(2)(b)							
D . POM Brian Ramirez		iscourtesy: Police Officer Brian Ramirez acted scourteously toward \$27(2)(6)						
E . POM Brian Ramirez		uthful Stmt.: Police Officer Brian Ramirez provided a eofficial statement to the CCRB.						

#### **Case Summary**

On May 18, 2020, \$37(2)(b) filed the following complaint on the CCRB's website. The case was initially assigned to Inv. Kenneth Shelton. It was reassigned to Inv. Julia Pagnamenta on May 24, 2021, upon Inv. Shelton's resignation from the Agency. At approximately 11:53 a.m., on May 18, 2020, \$87(2)(b) went to the Target Store located at 445 Albee Square West in Brooklyn. As \$87(2)(b) entered the store, he noticed Police Officer Brian Ramirez of the 73<sup>rd</sup> Precinct, who was in plainclothes, standing at the entrance. §87(2)(b) empty Target cart and walked through the store. After being in the store for approximately five minutes, \$87(2)(b) returned to the front of the store with the empty cart. \$87(2)(b) Officer Ramirez if he could put his cart back and exit through the entrance door. Police Officer Ramirez told him he had to empty his pockets before he left the store (Allegation A – Abuse of Authority: Stop, § 87(2)(g) ■ (Allegation B – Abuse of Authority: Search (of person), When \$87(2)(b) refused to do so, Police Officer Ramirez identified himself as an NYPD officer and pulled back his jacket and showed [88(2)] his firearm. Police Officer Ramirez told \$87(2)(b) that he knew he had "something" on him, and that he would "tak[e]" him "in" (Allegation C – Abuse of Authority: Threat of Arrest, \$87(2)(g) Police Officer Ramirez then used his radio to call in Target store manager \$87(2)(6) Officer Ramirez told \$87(2)(b) that \$87(2)(b) had entered the store without anything in his pockets and was now trying to "walk out" with "all this stuff" in his pockets. \$87(2)(6) asked \$ if he had "anything" on him, and \$87(2)(b) replied he had not taken anything from the then told Police Officer Ramirez he was going to take a picture of him and began recording their interaction. Police Officer Ramirez told \$87(2)(6) he was going to take a picture of him as well, took out his cell phone, and appeared to take a photo of § 87(2)(6) (Allegation D – **Discourtesy:** Action, \$87(2)(9) Police Officer Ramirez then told \$87(2)(6) that if he had taken items from the store, he would be placed under arrest (within Allegation C). \$87(2)(6) emptied the entire contents of his pockets, which were all items that belonged to him, into a cart. left the Target Store and was not summonsed or arrested. The investigation determined that Police Officer Ramirez provided a false official statement to the CCRB on August 11th, 2021 (Allegation E: Untruthful Statement – False Official Statement, \$87(2)(g) Attempts to obtain video footage from the Target Store were unsuccessful. The investigation obtained two videos from \$87(2)(6) that captured most of the incident inside the Target Store and are attached in IAs #30 and #102 (he provided four files in total but two were simply truncated duplicates of one of the two other videos) (Board Reviews 01 and 02) and are summarized in IAs #59 and #104 (Board Review 03 and 04). The CCRB received no footage from Police Officer Ramirez's BWC. In his CCRB Interview, Police Officer Ramirez that explained he was working off-duty at the Target store that day. Patrol Guide Procedure 212-123 prohibits police officers from activating their BWC during off-duty employment (Board Reviews 05).

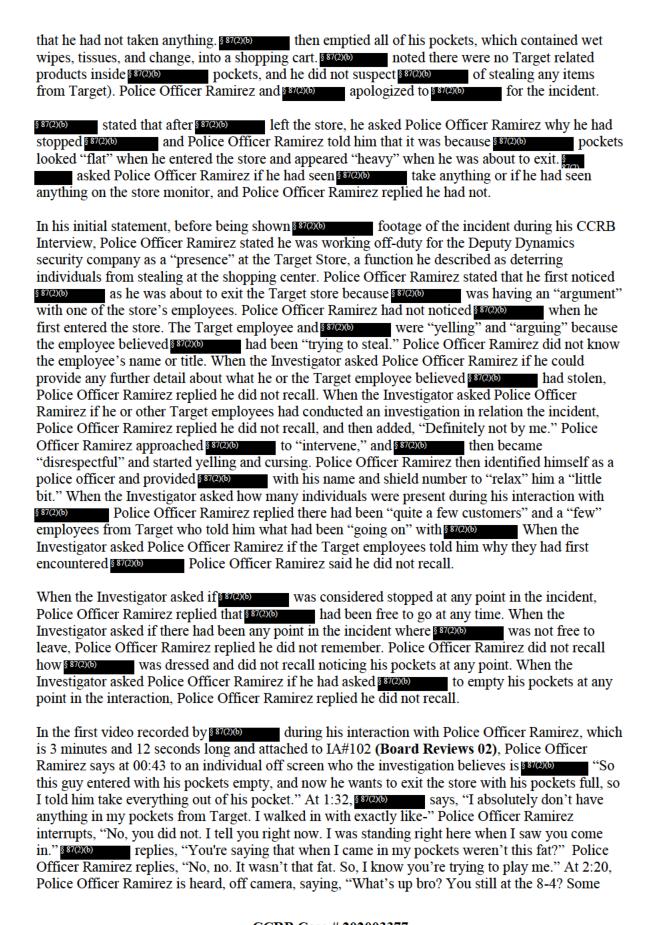
#### **Findings and Recommendations**

was interviewed via telephone on July 7<sup>th</sup>, 2020 (**Board Review 06**) and provided a

follow-up telephone statement on September 1<sup>st</sup>, 2021 (**Board Review 07**). was interviewed via telephone on March 12<sup>th</sup>, 2021 (**Board Review 08**). Police Officer Ramirez was interviewed on August 11<sup>th</sup>, 2021 (**Board Review 09**).

stated he entered the Target Store carrying a wallet, change, approximately \$100 in cash, his cellphone, car keys, house keys, approximately six or seven pens, wipes, an alcohol spray bottle, and hand sanitizer in various pockets, and believed his belongings had created bulges in his pockets. As \$37000 entered the store, he noticed Police Officer Ramirez standing at the entrance. After being in the store for approximately five minutes and not finding what he was looking for, \$37(2)(6) returned to the entrance of the store with the same empty cart. asked Police Officer Ramirez if he could put his cart back and exit through the entrance door, and Police Officer Ramirez told him he could. As 1870 put his cart away, Police Officer Ramirez told him, "Before you leave, you've got to empty your pockets." \$87(2)(6) asked him why, and Police Officer Ramirez replied he had "stuff" in his pockets that he did not have when he came in. told Police Officer Ramirez he would not empty his pockets because he had the same "stuff" in his pockets when he first entered the store and that the "bulges" in his pocket were not a reason to stop him. Police Officer Ramirez identified himself as an NYPD officer and pulled back his jacket and showed \$3000 his firearm. \$3000 asked Police Officer Ramirez for his name, and Police Officer Ramirez provided his name and shield number. \$87(2)(0) told Police Officer Ramirez he did not "care" who he was, he was not going to empty his pockets, that no alarm had gone off, and that no loss prevention associate had pointed him out as someone who should be stopped. Police Officer Ramirez told \$87(2)(6) he could not leave the store until he emptied his pockets because he "knew" he had something on him, as he had looked at him when he came into the store, and that he would "tak[e]" him "in." stated that Police Officer Ramirez then used his radio to call in §87(2)(6) Officer Ramirez told \$37000 that \$37000 had entered the store without anything in his pockets and was now trying to walk out with "all this stuff" in his pockets. \$87(2)(6) if he had "anything" on him, and serons replied he had not taken anything from the store. After a further back and forth (discussed under Allegations C and D), \$87(2)(6) announced that he was going to empty his pockets into the empty cart and emptied the entire contents of his left and right jacket pockets, front left and right pants pocket, and his back and side pants pockets. After \$87(2)(6) emptied all of his pockets, Police Officer Ramirez told he was "free to go." stated he was inside his office with a co-worker when Police Officer Ramirez called him on his walkie-talkie and told him he needed \$37(2)(0) to come to the front entrance of the store because there was a gentleman he needed to speak to him about. §87(2)(6) walked to the store's entrance immediately after receiving Police Officer Ramirez's call, and saw Police Officer Ramirez standing in the vicinity of the store's doors. \$87(2)(6) did not observe anything in pockets when he first saw him. After arriving at the front of the store, \$87(2)(6) what had happened, and \$87(2)(6) told him that Police Officer Ramirez had "falsely accused" him of stealing. \$\$7(2)(6) explained that after doing a lap around the store, he had tried to exit after not finding what he had come in for, but Police Officer Ramirez had stopped him at the front of the store and told him to empty his pockets. Police Officer Ramirez told that when \$87(2)(6) first entered the store his pockets had been "flat" and nothing was "poking out," but when he was exiting his pockets looked "heavy" and a "little bigger." [\$7(2)6) then asked Police Officer Ramirez for his name and badge number, and Police Officer Ramirez asked Police Officer Ramirez what would provided the information to § 87(2)(b)

happen after he emptied his pockets, and he did not find anything. Police Officer Ramirez replied he would apologize. § \$7(2)(a) announced he was going to empty out all of his pockets to show



guy is trying to walk out...his pockets were empty, now they are full. He is refusing to take his stuff out of his pocket and he's here at 445 Albee Square. Yeah, because if you know somebody who wants to make an easy 92 send him over here... All right, you are out working now? All right so that's what I wanted to find out because he's trying to play the system. You know his pockets were completely empty, and he wants to exit the store, you know?" The video ends as Police Officer Ramirez is speaking on the phone.

In the second video shot by (STON) which is 1 minute and 7 seconds long and attached to IA#30 (Board Reviews 01), the footage begins as (STON) is emptying his pockets into a shopping cart. At 00:05, he announces, "This is the stuff in my pocket. Everything in my pocket." then says, "Look that's this pocket, now watch this pocket. I'ma do my front pants pockets too." At 00:11, after the camera pans to Police Officer Ramirez and (STON) says, "Okay, these are the guys that stopped me." Police Officer Ramirez tells (STON) says, "That's my wallet, my ID. All these credit cards." Police Officer Ramirez says, "That's fine. That's fine." (STON) says, "I'm going to do my pants pocket too." At 00:36, Police Officer Ramirez replies, "That's all you need to do." (STON) goes on, "That's my keys." At 00:45, the camera pans to the Target cart full of the belongings (STON) emptied out of his pockets. At 00:51, Police Officer Ramirez says, "Nobody saw you walk out with stuff I told you." (STON) replies, "So my pockets are full, but it was the exact same look." Police Officer Ramirez says, "That's fine." The video ends as continues to narrate what is inside his pockets, and Police Officer Ramirez says, "Thank you, sir, have a good day."

After watching the first 15 seconds of the second video (IA#30) (Board Review 01) during the CCRB Interview, Police Officer Ramirez stated that the video refreshed his memory of the incident and that \$870,000 had been "arguing" with the Target security personnel present in the video (The only other individual seen in the video in the vicinity beside Police Officer Ramirez is Police Officer Ramirez stated that [870] had started "threatening" the security guard and saving that the Target security guard had "stopped him." When the Investigator asked Police Officer Ramirez what he meant when he told (1870) "I stopped you," Police Officer Ramirez replied that when the Target security guard was going to stop \$87(2)(6) at the store's exit, he became "disrespectful," and Police Officer Ramirez then "intervened" so that they would not go "back and forth in front of the customers" since \$87(2)(6) was making a "big scene." Police Officer Ramirez told second he had stopped him so that he would not "argue" with the Target security guard. When the Investigator asked Police Officer Ramirez if \$3000 was not free to leave at that point in the incident, Police Officer Ramirez replied \$57(2)(b) "could have left," but started "taking everything out of his pockets" and "throwing stuff" into one of the shopping carts. Police Officer Ramirez added that was "as much" as he could recall of this interaction. When the Investigator asked Police Officer Ramirez if he had asked \$870,000 to remove those items from his person, Police Officer Ramirez replied he did not recall. When the Investigator asked Police Ramirez replied he was not sure if it had been the security guard.

During the video, at the point where says, "My pockets were full," the Investigator asked Police Officer Ramirez if he had made any comments to says, "My pockets were full," the Investigator asked Police Officer Ramirez replied he did not recall. When the Investigator asked Police Officer Ramirez replied he did not recall. When the Investigator asked Police Officer Ramirez replied he did not recall. When the Investigator asked Police Officer Ramirez if he noticed the bulge in says pockets change throughout his visit at the Target Store, Police Officer Ramirez replied he did not recall.

As per <u>People v. De Bour</u>, 40 N.Y.2d 210 (1976) police officers can stop an individual if there is reasonable suspicion that a particular person has committed, is committing or is about to commit a crime (**Board Review 10**).

NYPD Patrol Guide 203-08 prohibits officers from intentionally making a false official statement regarding a material matter. "Examples of circumstances in which false statements may arise include lying under oath during a civil, administrative, or criminal proceeding" such as an interview conducted by the Civilian Complaint Review Board. A false official statement may arise when an officer creates a "false description of events" (Board Review 11).

During his CCRB Interview, Police Officer Ramirez denied stopping stating he had not even seen when he initially entered the store and was merely "interven[ing]" on behalf of a Target employee who had stopped prior to Police Officer Ramirez engaging with in order to deescalate the situation, and did not recall if he asked to empty his pockets.
The first video (IA #102 (Board Review 02)) captures Police Officer Ramirez telling who is the only other individual seen in the video in the immediate vicinity of Police Officer Ramirez and who is the only other individual seen in the video in the immediate vicinity of Police Officer Ramirez and who is the only other individual seen in the video in the immediate vicinity of Police Officer Ramirez and who is the only other individual seen in the video in the immediate vicinity of Police Officer Ramirez and who is the only other individual seen in the video in the immediate vicinity of Police Officer Ramirez and who is the only other individual seen in the video in the immediate vicinity of Police Officer Ramirez and who is the only other individual seen in the video who is the only other individual seen in the video who is the only other individual seen in the video who is the only other individual seen in the second the outer the store and told him the was account, in which he stated that during the incident seed that during the incident seed that obtained the incident seed that during the incident seed that during the incident seed that the incident seed that during the incident seed t
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# Allegation (C) Police Officer Brian Ramirez threatened to arrest [87(2)0) Allegation (D) Police Officer Brian Ramirez acted discourteously toward [87(2)0)

stated that after Police Officer Ramirez called in stated in stated that after he did this, Police Officer Ramirez told follow-up statement, stated that after he did this, Police Officer Ramirez told he was going to take a picture of him too and used his cell phone to take a picture of stated that he was not going to open his jacket or empty his pockets, Police Officer Ramirez stated that stated that stated had something on him from the store and he was going to call the 84th Precinct and that they were going to "take" him "in." Police Officer Ramirez placed a call over a radio and told an individual, "I've got a guy right here. He came in the store, and he's walking out with stuff in his pockets, swing by and get an easy arrest."

stated he did not remember Police Officer Ramirez taking a picture of stated he did not hear Police Officer Ramirez have a conversation about sending someone over for an "easy arrest" because stated he did not hear Police Officer Ramirez have a conversation about sending someone over for an "easy arrest" because stated he did not remember Police Officer Ramirez taking a picture of stated he did not remember Police Officer Ramirez taking a picture of stated he did not hear Police Officer Ramirez have a conversation about sending someone over for an "easy arrest" because stated he did not hear Police Officer Ramirez have a conversation about sending someone over for an "easy arrest" because stated he did not hear Police Officer Ramirez have a conversation about sending someone over for an "easy arrest" because stated he did not hear Police Officer Ramirez have a conversation about sending someone over for an "easy arrest" because stated he did not hear Police Officer Ramirez have a conversation about sending someone over for an "easy arrest" because stated he did not hear Police Officer Ramirez have a conversation about sending someone over for an "easy arrest" because stated he did not hear Police Officer Ramirez have a conversation about sending someone over for an "easy arrest" because stated he did not hear Police Officer Ramirez have a conversation and the same stated he did not hear Police Officer Ramirez have a conversation and the same stated hear t

Police Officer Ramirez stated he did not have a police radio on him during the incident and had been carrying a radio from the Deputy Dynamics security company. When the Investigator asked Police Officer Ramirez if he had used his electronic device to call another officer during the incident, Police Officer Ramirez replied he had not. When the Investigator asked him if he had called any officer from the 84th Precinct at any point during the incident, Police Officer Ramirez replied he had not. When the Investigator asked Police Officer Ramirez if the topic of "taking in" to a precinct stationhouse came up, Police Officer Ramirez replied he did not recall. When the Investigator asked if could have been brought back for any reason, Police Officer Ramirez replied he did not recall. When the Investigator asked Police Officer Ramirez if the topic of arresting had come up, Police Officer Ramirez replied it had not. When the Investigator asked Police Officer Ramirez if he had called anyone on his electronic device to come make an "easy arrest," Police Officer Ramirez replied he did not.

When the Investigator asked Police Officer Ramirez if he had taken a picture of strong at any point during the interaction, Police Officer Ramirez replied he did not recall. When the Investigator asked if there would have been any reason to take a picture of strong during the incident, Police Officer Ramirez replied he did not know.

In the first video recorded by § 87(2)(6) during his interaction with Police Officer Ramirez, attached to IA# 102 (Board Review 02), at 00:10, Police Officer Ramirez says, "Don't worry we're going to look at the camera right now." [887(2)(6)] replies, "OK," and Police Officer Ramirez says, "And if you're taking something you are going to be placed under arrest. I am telling you right now." § 87(2)(b) replies, "Absolutely, as I should be." Approximately a minute into their interaction, § 87(2)(b) says to Police Officer Ramirez, "Let's get your picture...Your ID, all that." Police Officer Ramirez takes out a cell phone, and says, "And you're going to get your pictures taken too because I'm telling you right now... if I see you..." [\$70)6 replies, "Absolutely. Do it." Police Officer Ramirez raises his cell phone and appears to point the rear of his camera toward (at 1:15). At 1:54, Police Officer Ramirez says, "Listen I'm going to call the 8-4, because I'm going to have them come here." Sayo, "Listen man, we don't want to drag this situation or anything like that." [87(2)(6) replies, "I know how the rules work, man. This is not the way it is supposed to be." At 2:20, Police Officer Ramirez is heard, off camera, saying, "What's up bro? You still at the 8-4? Some guy is trying to walk out...his pockets were empty, now

they are full. He is refusing to take his stuff out of his pocket and he's here at 445 Albee Square. Yeah, because if you know somebody who wants to make an easy 92 send him over here... All right, you are out working now? All right so that's what I wanted to find out because he's trying to play the system. You know his pockets were completely empty, and he wants to exit the store, you know?" The video ends as Police Officer Ramirez is speaking on the phone.

New York Penal Law <u>155.25</u> states that a person is guilty of petit larceny when they steal property. Petit larceny is considered a Class A misdemeanor (**Board Reviews 12**).

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§ 87(2)(g)
Police Officer Ramirez i captured telling that if the store video shows him "taking something," he will be "placed under arrest." The video further captures Police Officer Ramirez placing a call to an individual named "Tony" at the 84 <sup>th</sup> Precinct and asking him if he knows somebody who would like to make an "easy" arrest.
As per <u>Patrol Guide Procedure 200-02</u> , the mission of the NYPD is to enhance the quality of life in New York City by working in partnership with the community to enforce the law, preserve peace, protect the people, reduce fear, and maintain order. It further states that the NYPD pledges to value human life, respect the dignity of each individual and render its services with courtesy and respect <b>(Board Reviews 13)</b> .
the video obtained by the investigation captures Police Officer Ramirez telling (\$170,000) he will take his picture and then extending his cell phone immediately after (\$170,000) stated he was going to take Police Officer Ramirez's picture.
Civilian and Officer CCRB Histories
• § 87(2)(b)
Police Officer Ramirez has been a member of service for 14 years and has been a subject in 11 other CCRB complaints and 37 other allegations, none of which were substantiated.

§ 87(2)(g)

### Mediation, Civil and Criminal Histories

- §87(2)(6) rejected mediation.
- According to the New York City Office of the Comptroller, no Notice of Claim had been filed regarding this incident as of August 17<sup>th</sup>, 2021 (Board Review 15).

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			(b)] [\$\$ 86(1)
Squad:	2		
Investigator:	Julia Pagnamenta Signature	Inv. Pagnamenta Print Title & Name	09/14/2021 Date
Squad Leader:	Alexander Opoku-Agyemang Signature	IM Alexander Opoku-Agyemans Print Title & Name	9/14/2021 Date
Reviewer:	 Signature	Print Title & Name	Date